

Friday, 9 o'clock. A. M.
March 3d, 1848.

The Senate was called to order by the President.

The following Senators answered to their names:

Messrs. Abbott, Bourland, Brashear, Burleson, Clark, Gage, Grimes, Fitzgerald, McRae, Navarro, Parker, Perkins, Wallace, and Wootten.

Quorum present.

The Journal of the preceding day was read and adopted.

On motion of Mr. Bourland, leave of absence was granted to Mr. Wootten for the remainder of the present session of the Legislature.

Mr. Perkins, Chairman of the committee on Engrossed Bills, reported as correctly engrossed, a bill to entitled an act to organize the Supreme Court of the State of Texas.

Mr. Perkins, Chairman of the committee on Private Land Claims, to whom was referred the petition of John Wetts and others, reported the following bill; and recommended its passage:

A bill to be entitled an act for the benefit of persons who settled in S. W. Peter's and his associates colony.

Read first time.

Mr. Grimes, Chairman of the committee on Finance, to whom was referred a bill to be entitled an act authorizing the appointment of a Fiscal Agent, and for the better security of the revenue, returned the same to the Senate, and recommended its passage.

Mr. Bourland, Chairman of the committee on Public Lands, made the following report:

The committee on Public Lands, to whom was referred a bill to be entitled an act to restore lands sold for Taxes, and bid in by the government, to the former owners, have had the

same under consideration, and instructed me to report the same back to the Senate, with an amendment, and recommend its passage.

Amendment. Strike out the word "off" in the 12th line, and insert the word "in"; and in fourteenth line, strike out "January" and insert "July."

Mr. Fitzgerald offered the following resolution:

"Resolved, That with the concurrence of the House of Representatives, the two Houses of the Legislature stand adjourned on Monday 13th inst. at 12 o'clock, M.

On motion of Mr. Brashear, the resolution was laid upon the table.

A message was received from the House of Representatives, informing the Senate, that the act regulating attachments, which the Senate requested to have returned to them, had been finally acted on by the House, on the day before yesterday, and it is not in their power to return it.

Also, that the House had concurred in the amendments of the Senate to the following bills, viz:

A bill to be entitled an act to incorporate the city of La Vaca.

A bill to be entitled an act regulating Attachments.

A bill to be entitled an act concerning the forfeiture of certain neat cattle.

A bill to be entitled an act to incorporate Montgomery Academy.

Also, that the House refuse to recede from their amendment to a resolution of the Senate, relative to employing some suitable person to take charge of the capitol, &c.

Also, that the House had passed the following bills, and joint resolutions, viz:

A bill to be entitled an act to organize Justices' Courts, and define the powers and jurisdiction of the same.

A bill to be entitled an act to raise a revenue by taxation.

A bill to be entitled an act to provide for revising the statute laws of the State of Texas.

A bill to be entitled an act to amend the forty-third section of an act punishing crimes and misdemeanors, approved Dec. 21st, 1836.

A bill to be entitled an act to amend the 17th and 19th sections of an act regulating juries.

Joint Resolution authorizing the Commissioner of the General Land Office to issue a patent to Edward Hall.

Joint Resolution for the relief of Henry M. Smith, and

Joint Resolution for the benefit of the Texas volunteers, called into the service of the country in the year 1846, which originated in the Senate.

Mr. Dancy, Chairman of the committee on State Affairs, made the following reports:

The committee on Affairs of State, to whom was referred a bill to be entitled an act to provide for the exchange of books, maps, charts, &c., have instructed me to return the bill back to the Senate, with the following amendments:

Amendment 1st. In the caption, strike out "etc" and insert "and," before charts."

Amendment 2d. In the 2d section, strike out "provided" and all thereafter; and recommend the adoption of the amendments, and the passage of the bill as amended.

The committee on Affairs of State, to whom was referred "an act to incorporate the town of Mount Pleasant, in the county of Titus," have instructed me to report the bill back to the Senate, with the following amendments, to wit:

In Sec. 1, line 9, strike out "Marshall" and insert "Bonham."

In line 10, strike out "Harrison, approved, December 31st, 1844," and insert "Fannin, approved Feb. 2d, 1848;" and recommend the adoption of the amendments, and the passage of the bill as amended.

Mr. Cuny, Chairman of the committee on contingent expenses, made the following report:

The committee on Contingent Expenses, to whom was referred, a bill to be entitled an act to regulate the public printing, have had the same under consideration, and instructed me to report the same back to the Senate, with amendments, and recommend its passage.

Amendments. In 2d Sec. 11th line, after the word "allowed," strike out "twenty," and insert "ten."

In Sec. 4, after the word "shall," in the 2d line insert "within three days after the election."

In Sec. 5, strike out all the 4th line, and insert "the laws within thirty, and the Journals within sixty days, from the day on which the copies are delivered to him."

Strike out the proviso.

In Sec. 6, after the word "shall," in the 3d line, insert "number all the acts and Joint Resolutions, and keep a register thereof." In the same line, insert before the word "cause," the word "and" and strike out after "cause" "the laws" and insert "them."

Substitute Section 8th, as follows:

"That copies of the Journals of each House of the first Legislature, shall be printed, and the printing of the same may be let out in a separate contract."

Additional section to be numbered 6th.

"That within days after the passage of any law or Joint Resolution, it shall be the duty of the Secretary of State to cause to be delivered to the Public Printer, correct copies of said laws and joint resolutions, in order that the printing may be executed with the least possible delay.

In Sec. 9, in 2d line, after "1846," strike out all that follows to the word "repealed," in the 4th line.

The Senate proceeded to the orders of the day.

A bill to be entitled an act for the relief of those persons having promissory notes of the Government, that have been cancelled by A. A. M. Jackson, as agent, &c., which said promissory notes have not been funded nor redeemed, was,

On motion of Mr. Fitzgerald, indefinitely postponed.

A bill to be entitled an act concerning crimes and punishments.

Read second time by sections.

Mr. Wallace moved to amend first section by striking out "of" in sixth line, and inserting "for," and by striking out all after "by" in the seventh line, and inserting "death."

Adopted.

Mr. Wallace moved to amend second section by striking out "fourteen days" in third line, and inserting "one day."

Adopted.

In same line, by striking out "having," and inserting "acquiring."

Rejected.

In fourth line strike out "or to" and insert "Judge of a court of record or."

Adopted.

Strike out seventh line and insert "for any time not less than ten years, nor more than twenty."

Rejected.

Mr. Williamson moved to strike out the second section.

Lost.

A message was received from His Excellency, the Governor, presenting two communications in writing.

Mr. Wallace moved to amend the third section by striking out all after "or" in the third line, and inserting "shall with intention to defraud the State, pay or deliver any money so by him received, to any person, knowing that said person has not authority to receive the same, the person so offending shall, on conviction thereof, be punished by confinement during any time not exceeding three years, and may, in the discretion of the jury, be fined any sum of money not less than one hundred dollars, nor more than ten thousand dollars.

Rejected.

Mr. Wallace offered the following as a substitute for the fifth section :

"Sec. 5. Be it further enacted, That every premeditated or deliberate killing of a human being by poison, starving, strangling, stabbing, shooting, striking, torture, or other means, or in attempting to commit arson, rape, robbery, burglary, larceny, treason or any other high crime, shall be murder of the first degree; and every other malicious killing of a human being which is not by this act declared to be murder of the first degree, shall be murder of the second degree; and in every case of the kind, the jury trying the same shall, by their verdict, find the person accused, guilty of murder of the first or of the second degree, and the amount of punishment to be inflicted, or that the person so charged is not guilty of murder.

Rejected.

Mr. Williamson moved to strike out the fifth section.

Upon which the yeas and nays were called, and stood thus :

Yeas—Messrs. Bourland, Brashear, Burleson, Cuny, Gage, Jewett, Fitzgerald, McRae, Parker and Williamson—10.

Nays—Messrs. Abbott, Bache, Clark, Dancy, Grimes, Navarro, Perkins, Wallace, Williams and Wootten—10.

There being a tie, the President voted in the Negative.

So the motion was lost.

Mr. Wallace moved to amend the sixth section by striking

out all after "murder" in second line, and inserting "the jury shall find the degree of the crime charged in the indictment; and if they find the person accused, guilty of murder in the second degree, they shall also find the punishment in such case prescribed by this act."

Rejected.

Mr. Wallace moved to amend the seventh section, by striking out "of" and inserting "for" in first line, and by striking out "of" in second line, and inserting "for," and by striking out in third line all after "confinement," and inserting "for not less than three nor more than fifteen years."

Adopted.

Mr. Williamson moved to strike out the seventh section.

Lost.

Mr. Wallace moved to amend the tenth section, by striking out the last line, and inserting "on conviction thereof be punished by confinement for any time, not less than one year."

Adopted.

Mr. Wallace moved to amend the eleventh section by striking out all after "disfigure" in second line, and inserting "shall maliciously put out an eye, or cut off or slit an ear or lip, or the nose or tongue, or shall cut off or disable any limb or member of another person, the person so offending shall, on conviction thereof, be punished by confinement for any time not less than one year nor more than ten years."

Rejected.

Mr. Williamson moved to strike out the eleventh section.

Lost.

Mr. Wallace offered the following as a substitute for the thirteenth section:

"Sec. 13. Be it further enacted, That if any free woman shall be delivered of a bastard child, and shall endeavor to conceal its death and the cause thereof, she shall, on conviction of said crime, be punished by confinement for any time not exceeding ten years."

Rejected.

Mr. Wallace offered the following as a substitute for the fifteenth section:

"Sec. 15. Be it further enacted, That if any person, without lawful authority shall forcibly confine or imprison any other person within this State, against his will, or shall forcibly and unlawfully carry or send, or aid or assist in carrying or sending

such person out of this State, or shall kidnap, inveigle, or unlawfully and forcibly seize such person, with intent to cause said person to be conveyed out of this State, against his or her will, to be sold or in any way held to service, the person so offending shall, on conviction thereof, be punished by confinement for any time not exceeding fifteen years."

Rejected.

Mr. Wallace offered the following as a substitute for the sixteenth section:

"Sec. 16. Be it further enacted, That if any white or free person shall wilfully and maliciously burn, or cause to be, or aid in burning any dwelling house, or other house adjoining thereto, or any other building, whereby an inhabited dwelling house shall be burned, or who shall burn or cause to be burned, or aid or assist in burning any store-house, grist-mill, saw-mill, court house, clerk's office, jail or prison house, or any barn, meat-house, granary, stable, office, shop, or any other house, the person so offending shall, on conviction thereof, be punished by confinement during any time not exceeding fifteen years, nor less than one year."

Rejected.

Mr. Wallace moved to amend the seventeenth section by striking out all after "any" in the second line, and inserting "ship, sloop, schooner, steamboat, pleasure-boat, keel-boat, flat-boat, or ferry-boat, moored or cabled, or sailing or running in any bay, lake, port, harbor, inlet, river, bayou or creek within the jurisdiction of the State, or any bridge within the same, shall, on conviction thereof, be punished by confinement during any time not less than six months nor more than ten years."

Rejected.

Mr. Wallace moved to amend the eighteenth section by striking out all after "endangered" in the fifth line, and inserting "the person so offending shall, on conviction thereof, be confined not less than six months nor more than three years."

Rejected.

Mr. Wallace moved to amend the nineteenth section by striking out all after "shall" and inserting "on conviction thereof

be punished by confinement for any time not less than three months nor more than one year, or by fine not exceeding five hundred dollars."

Rejected.

Mr. Wallace offered the following as a substitute for the twentieth section:

"Sec. 20. Be it further enacted, That if any free person shall in the night time, or in the day time, maliciously, or with intent to commit a crime, break and enter any dwelling-house, banking house, storehouse, warehouse, jail, clerk's office, court house, mill, cotton-gin, college, academy, meat-house, stable, granary, shop or office, or any ship, sloop, schooner, steamboat, flatboat, or keel-boat lying or being in any bay, lake, river, bayou, creek, port, harbor within the jurisdiction of the State, the person so offending shall, on conviction thereof, be punished by confinement during any time not more than one year nor less than ten days, with or without labor, in the discretion of the jury."

Rejected.

Mr. Clark moved to amend the 23d section by inserting "cotton-gin" after "mill."

Adopted.

Mr. Wallace moved to amend the twenty-fourth section, by inserting after "horse," in second line, "gelding, mare or colt," and by striking out all after the word "injure" in the third line, and inserting "the owner thereof, the person so offending shall, on conviction, be confined for any time not exceeding one year."

Adopted.

On motion of Mr. Brashear, the further reading of the bill was suspended, and the communications from His Excellency, the Governor, were read: one of which being nominations for Judges of the sixth and ninth Judicial Districts, was,

On motion of Mr. Gage, made the special order of the day for Wednesday next.

On motion of Mr. Gage,

The nomination of Judge for the 6th Judicial District was referred, together with documents relative to the same, to the committee on Apportionment, Privileges and Elections.

On motion of Mr. Bourland,
The nomination of Judge for the ninth Judicial District, was referred to the same committee.

The other communication from his Excellency, the Governor, was as follows:

EXECUTIVE OFFICE,
Austin, March 2d, 1848.

*Gentlemen of the Senate:
and House of Representatives.*

In the general message, which I had the honor to lay before the Legislature at the commencement of the session, I did not advert, specifically, to the northwestern portion of our State, including Santa Fe, for the reason that my recent induction into office afforded me no time to investigate the subject, or to inform myself fully as to the condition of that territory.

Since that time, however, events have transpired which cannot fail to awaken an interest, and direct attention to that quarter of our frontier.

Credible information has reached the Executive, that a State Government, exercising civil jurisdiction, has recently been established in Santa Fe, within the legitimate and acknowledged boundaries of Texas, and that measures have been taken to call a convention of the people of that district for the avowed purpose of framing a State Constitution, preparatory to its annexation to the United States,

The Executive has given to that subject the consideration which its importance demands, and in submitting it to the Legislature, with the facts in his possession relative to the present condition of Santa Fe, and the late proceedings of the acting authorities there; he feels assured of the concurrence and co-operation of your Honorable Body in maintaining the right of Texas to every foot of her territory.

It appears that the establishment of a separate and independent State Government in Santa Fe has the sanction of the authorities of the United States Government acting in that quarter, and under whose protection all New Mexico is at this placed, though the General Government has disclaimed all right to that territory, and has repeatedly recognized the right

of Texas to that portion of it lying east of the Rio Grande. Upon the commencement of hostilities between the United States and Mexico, General Kearney was dispatched with a requisite force to Santa Fe, with instructions from the General Government to take possession of the country and establish a military Government for the preservation of order and the protection of the rights of the people on that portion of the Texas frontier.—A question arose as to the right of the General Government to exercise a jurisdiction over that portion of our State. My predecessor, Governor Henderson, being unapprised as to the purposes and ultimate designs of the General Government, and doubting the justice of the jurisdiction which she was exercising, addressed a letter to the Secretary of State at Washington under date of 4th January, 1847, enquiring of the President “whether the proceedings of Gen. Kearney were authorized or sanctioned by the General Government.” He also desired to be informed “if the General Government claimed any portion of the territory lying east of the Rio Grande and embraced within the limits of Texas, as declared by an act of Congress, passed in December, 1836, to the exclusion of the claim of the State of Texas to the soil and jurisdiction over the same?”

In reply to these enquiries, Mr. Buchanan, Secretary of State, in a letter dated at Washington, 12th of February, 1847, asserted, “that the occupation of New Mexico by the troops of the United States was temporary, and that the government over it was military in its character; merely such a government as must exist under the laws of nations and of war, to preserve order and to protect the rights of the inhabitants, and that it would cease on the conclusion of a treaty of Peace with Mexico. “Nothing therefore,” Mr. Buchanan concludes “can be “more certain than that this temporary Government, resulting from necessity, can never injuriously affect the rights “which the President believes to be justly asserted by Texas to “the whole territory on this side of the Rio Grande, whenever “the Mexican claim to it shall have been extinguished by treaty.”

These assurances on the part of the President of the United States, were satisfactory, as regarded the recognition by the General Government of the right of Texas to all the territory embraced within the boundaries prescribed by law. But the late movements in Santa Fe, the establishment of a civil gov-

ernment independent of Texas and the contemplated convention of the people of that territory for the purpose of annexing it to the United States, encouraged and supported by the officers of the United States, as it appears, I conceive to be at variance with the professions of the President, and dangerous to the rights and interests of the State.

The right of Texas to every foot of soil within her limits as prescribed by our laws is no question with us. We have uniformly asserted and have always been able to maintain it.—The independence of Texas, with her territorial limits as defined by law in 1836, was acknowledged by the United States and the principal powers of Europe. The compact of annexation did not invalidate our title to any portion of our territory. Nor has any thing transpired since our incorporation into the United States or during the pendency of the war with Mexico to impair that title.

It cannot be presumed that the occupation of Santa Fe by troops drawn from other States could prejudice in the least our right to the territory; for had the Texas troops been ordered there instead of being sent to another quarter, they would have been amply sufficient to occupy the whole of that country and to hold it in peaceable possession; in which event the establishment of a separate Government in Santa Fe would have never occurred, and the projected dismemberment of our State (to which Texas will never submit) would not have been heard of.

As a silent acquiescence in the late movements in Santa Fe, might be construed into a submission to unauthorized encroachments, I respectfully recommend to the Honorable Legislature the propriety of taking some Legislative action upon the subject, in order that our delegation in Congress may feel authorized and instructed to remonstrate and protest, if necessary, against the infringement of our rights or the usurpation of our territory. Our Senators may be instructed to enquire into the policy and orders of the President concerning the establishment of a government in Santa Fe, and they may be further instructed to oppose the ratification of any treaty in which it is not expressly stipulated that the boundaries of the State as previously defined by the laws of the Republic of Texas, be recognized.

I would also suggest to your Honorable Body the necessity of taking suitable legislative action for the immediate enforcement of our civil and political jurisdiction over that portion of Texas including Santa Fe. To effect this object, the Execu-

tive will cheerfully co-operate with you by carrying out such measures as you may see proper to adopt.

GEO. T. WOOD.

On motion of Mr. Parker, the message was referred to the committee on State Affairs, and 500 copies ordered to be printed.

On motion of Mr. Gage, the Senate adjourned until 3 o'clock, p. m.

3 o'clock, P. M.

Senate met; roll called; quorum present.

Mr. Wallace moved to amend the 25th section by striking out all after "shall" in 2d line, and inserting "on conviction thereof, be punished by confinement during any time not less than six months nor more than three years."

Rejected.

Mr. Wallace moved to amend the 26th section by inserting after "horse" in 2d line, "gelding, mare, filly or foal:" and after "shall" in 3d line, "on conviction thereof restore the property so stolen, or pay the value thereof, and be punished by confinement during any time not exceeding five years."

Rejected.

On motion of Mr. Williamson, "swine" was stricken out.

Mr. Fitzgerald moved to amend the 27th section by striking out "bank bills."

Rejected.

Mr. Wallace offered the following as a substitute for the 27th section:

"Sec. 27. Be it further enacted, That if any free person shall steal or take and carry away of the property of another, any goods or chattels, or any money, bank bills, or any writing containing evidence of any existing debt, contract, liability,

promise to pay money, or relative to the ownership of property, or for the receipt, payment or discharge, for any money or property, or any writing of a like kind, the person so offending shall on conviction thereof, restore the article stolen, and be punished by confinement not exceeding five years."

Rejected.

Mr. Wallace moved to amend the 29th section by striking out all after "shall" in the 7th line, and inserting "on conviction restore the thing stolen, or pay the value thereof, and be punished by confinement during any time not exceeding two years."

Rejected.

Mr. Wallace moved to amend the 30th section by striking out all after "stolen" in 3d line, and inserting "the person so offending shall, on conviction thereof, be punished either before or after the conviction of the principal felon, in the same manner as though he or she had stolen said property."

Rejected.

Mr. Wallace moved to amend the 31st section by striking out "thirty" in 6th line, and inserting "five," and by striking out "one year" in same line, and inserting "three months." In 7th line by striking out "by both of said punishments," and by inserting at the end of the section, "by both fine and punishment:" and by inserting after "person" in 5th line, "on conviction."

Adopted.

On motion of Mr. Bourland, the 31st section was stricken out.

Mr. Wallace moved to amend the 32d section by striking out "by both of said punishments, in the last line, and inserting "in the discretion of the jury by both fine and imprisonment," and by striking out "he" in fifth line, and inserting "the person so offending shall on conviction thereof."

Rejected.

On motion of Mr. Bourland, the 31st section was stricken out.

Mr. Wallace moved to amend the 32d section by striking out "by both of said punishments" in the last line, and inserting "in the discretion of the jury, by both fine and imprisonment," and by striking out "he" in fifth line, and inserting "the person so offending shall, on conviction thereof."

Rejected.

On motion of Mr. Williamson, the 32d section was stricken out.

Mr. Fitzgerald moved to strike out the 33d section.

Lost.

On motion of Mr. Jewett, the vote striking out the 32d section was reconsidered.

The question on striking out the 32d section was again put, and lost.

Mr. Wallace moved to amend the 33d section, by striking out "he" in 4th line, and inserting "the person so offending shall on conviction thereof."

Rejected.

Mr. Williamson moved to amend the 39th section, by striking out "or begin to make," in second line.

Adopted.

Mr. Fitzgerald moved to strike out the 40th section.

Lost.

On motion of Mr. Brashear, the 63d section was stricken out.

On motion of Mr. Gage, the 64th section was stricken out.

On motion of Mr. Williamson, the 65th section was stricken out.

On motion of Mr. Fitzgerald, the 66th section was stricken out.

On motion of Mr. Brashear, the 67th section was stricken out.

On motion of Mr. Williams, the 68th section was stricken out.

Mr. Dancy moved to amend the 69th section, by striking out "as in case of adultery," and inserting "by imprisonment in common jail, not exceeding one year, and fine not exceeding five hundred dollars."

Adopted.

Mr. Fitzgerald moved to strike out the 74th section.

Lost.

Mr. Williamson moved to amend the 76th section by striking out "fifty" in last line, and inserting "twenty-five."

Adopted.

Mr. Brashear moved to strike out "highway," in same section.

Lost.

Mr. Williamson moved to amend the 77th section by striking out "five hundred."

Adopted.

Mr. Williamson moved to fill the blank with "fifty."

Lost.

Mr. Dancy moved to fill the blank with "two hundred and fifty."

Lost.

On motion, the blank was filled with "one hundred."

Mr. Williamson moved to amend further, by striking out "fifty," and inserting "ten."

Adopted.

Mr. Clark moved to amend the 78th section by striking out that portion which relates to imprisonment in the Penitentiary."

Adopted.

Mr. Fitzgerald moved to strike out the 81st section.

Lost.

Mr. Williamson moved to amend the 81st section by striking out "twenty" and "one hundred," and inserting "ten" and "twenty-five."

Adopted.

On motion of Mr. Brashear, the 82d section was stricken out.

Mr. Perkins moved to strike out the 61st section.

Lost.

The bill was then ordered to be engrossed.

A message was received from His Excellency the Governor, presenting a communication in writing, which was read, and

On motion of Mr. Brashear, made the special order of the day for to-morrow.

On motion of Mr. Burleson,

A bill to be entitled an act to create the county of Williamson, was taken up.

Read third time and passed.

Mr. Clark, chairman of the committee on the Judiciary, made the following report:

"A majority of the Judiciary committee have considered "a bill to be entitled an act to incorporate the town of Columbia,

in Brazoria county," and have instructed me to report the same back to the Senate, with a substitute, the adoption and passage of which they recommend."

On motion of Mr. Gage, the Senate adjourned.

Saturday, 9 o'clock, a. m.
March 4th, 1848.

The Senate was called to order by the President.

The following Senators answered to their names:

Messrs. Abbott, Bourland, Brashear, Bache, Burleson, Clark, Dancy, Gage, Fitzgerald, Parker, Perkins, Wallace, and Wootten.

Quorum present.

The Journal of the preceding day was read and adopted.

Mr. Dancy, chairman of the committee on State Affairs, made the following report.

The committee on Affairs of State, to whom was referred a resolution instructing said committee "to inquire into the expediency of proposing an amendment to the third section of the tenth article of the Constitution, so as to authorize the Legislature to dispose of the lands heretofore appropriated for school purposes, otherwise than by lease, as required in said section," after due deliberation, have instructed me to report, that they are satisfied that many inconveniences and hardships will result from the plan proposed in the Constitution. They are, however, of opinion, that if the Legislature had entire control of those lands, local interests might cause them to be sold, so that the objects for which they have been appropriated would, probably, be defeated. They are not willing to recommend the amendment, unless there was a general expression of opinion in favor thereof, by the people of the State. The majority of the committee, therefore, have instructed me to report, that they